IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.

WRIT PETITION NO. 22 OF 1999.

Mohan Laxman Sasane & ors. ... Petitioners.
V/s.
Sudhakar Pandit Mundhe & ors. ... Respondents.

Shri Aarati P. Bhide for the respondent Nos. 1 to 3.

CORAM : V.C.DAGA, J.

DATED : 29.8.2006.

JUDGMENT:

. Heard rival parties. Perused petition and written submissions filed by the rival parties.

2. This petition is directed against the order dated 28.7.1998 passed by the Maharashtra Revenue Tribunal, Pune, ('MRT for short') whereby in exercise of revisional jurisdiction, order passed by the authorities below i.e. Sub-Divisional Officer, Phaltan and Tahasildar, Jawali (Medha) dated 29.2.1997 and 30.6.1996 respectively, came to be set aside and revision was allowed and names of the present petitioners were directed to be deleted.

3. Having gone through the impugned order, no findings have been recorded by the MRT with respect to refusal to grant certificate under section 88-C of the B.T. & A.L.Act in favour of the present respondents, which is clear from the order dated

30.6.1996 passed by the Tahasildar, Jawali, xerox copy of which is produced on record.

4. It further appears from the proceeding of the authorities below that the predecessor-in-title of the petitioner claimed to be tenants of Survey No. 216/A. It is not clear from the record when their tenancy was terminated and who is in possession of the said survey number. Some of the findings recorded by the authorities below have not been dealt with by the MRT. It was expected on the part of the MRT to deal with those findings and to record clear findings with reasons either approving or disapproving the said findings. The order of the MRT has not dealt with each and every finding while setting aside the order of the lower authority.

5. The learned Counsel for the petitioners and respondents, both, during the course of hearing ventured to produce some of the documents which were not produced by either of the parties in Courts below as such the same cannot be looked into at this stage of the litigation in absence of appreciation thereof by the last Court, who is entitled to record final finding of fact. In the circumstances, considering perfunctory nature of the impugned order passed by the MRT, the same is liable to be quashed and set aside. In the result, impugned order is quashed and set aside and the proceedings are

remitted back to the MRT for consideration afresh following principles of natural justice.

6. Needless to mention that both the parties shall be at liberty to file relevant documents or certified copies thereof for perusal of the MRT, which the MRT shall take on record in accordance with law and Rules of the Tribunal and shall decide all the issues in accordance with law. It is expected that considering chequered nature of the litigation, the MRT shall dispose of the matter as expeditiously as possible. In the meanwhile, parties are directed to maintain status-quo.

(V.C.DAGA,J.)